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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 9th May 2012

No. 3614—li/1(B)-121/2001 (Pt.)-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 26th November 2011 in Industrial Dispute Case No. 121 of 2002 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of Executive Engineer, Naraj Barrage Division No. II, Gandarpur, Cuttack and its Workmen Shri Alekh Charan Mallik, Shri Kashinath Baral and Shri Ashok Kumar Mohanty represented through Mahanadi-Birupa Barrage and Chitrotpala-Genguti Irrigation Project Employees Union, Gandarpur, Cuttack was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 121 OF 2002

Dated the 26th November 2011

Present :

S.A.K.Z. Ahamed,
Presiding Officer,
Labour Court,
Bhubaneswar.

Between :

The Executive Engineer,
Naraj Barrage Division No. II,
Gandarpur,
Cuttack.

First Party—Management

And

Its Workmen,
 Shri Alekh Charan Mallik,
 Shri Kashinath Baral and
 Shri Ashok Kumar Mohanty
 represented through Mahanadi-
 Birupa Barrage and Chitrotpala-
 Genguti Irrigation Project
 Employees Union,
 Gandarpur, Cuttack.

Second Party—Workmen

Appearances :

None

For the First Party— Management

Shri A. C. Mallik

Second Party— Workmen themselves

Shri A. K. Mohanty

AWARD

The Government of Odisha in exercise of powers conferred by sub-section (5) of Section 12, read with Clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 have referred the matter in dispute to this Court vide Order No. 14183—li/1 (B)-121/2001-LE., dated the 5th December 2002 of the Labour & Employment Department, Bhubaneswar for adjudication.

2. The terms of reference is as follows :

"Whether the refusal of employment to Shri Alekh Charan Mallik, Shri Kashinath Baral, Shri Ashok Kumar Mohanty, N.M.R. Workers, by the Executive Engineer, Naraj Barrage Division No. II, Cuttack is legal and/or justified ? If not, to what relief the above workers are entitled ?"

3. The case of the workmen, in brief, as set out in their joint statement of claim filed by the above named Union is that they all were working as N.M.R. workers under the management since the year, 1988, 1989, and 1990 respectively. All the workmen have worked continuously for more then 240 days of service in every year under the management. But the management without any rhyme and reason had illegally terminated their services by way of refusal of employment without compliance of Section 25-F of the Industrial Disputes Act. So they have now prayed for their reinstatement in service with full back wages.

4. The management was set *ex parte*.

5. In order to substantiate their claims, the workman Alekha Charan Mallik has examined as W.W.1 and Ashok Kumar Mohanty has examined as W.W.2 and proved the copy of Experience Certificate under the cover of Exts. 1 and 2, respectively.

6. The workmen in their affidavit evidence has fully corroborated the facts stated in their statement of claim. Since the management has been set *ex parte* and the evidence both oral and

documentary tendered by the workmen have remained uncontroverted, I have no option but to answer in affirmative in favour of the workmen.

7. It is stated by the workmen that no notice was served on them before they were terminated. Also notice pay and any compensation was paid to them before refusal of employment by the management. Thus, the management has contravened the provisions of Section 25-F of the Industrial Disputes Act, 1947 which is a mandatory and pre-condition one. In the result, therefore, in my opinion, all the workmen are entitled to be reinstated in service with full back wages.

8. Hence, it is Ordered :

That the refusal of employment to Shri Alekha Charan Mallik, Shri Kashinath Baral and Shri Ashok Kumar Mohanty, N.M.R. workers by the Executive Engineer, Naraj Barrage Division No. II, Cuttack is neither legal nor justified. The above named workmen are entitled to be reinstated in service with full back wages. The management is directed to implement this Award within a period of two months from the date of its publication failing which, the amount shall carry interest at the rate of 10% per annum till its realisation.

The reference is answered accordingly *ex parte*.

Dictated and corrected by me.

S.A.K.Z. AHAMED

26-11-2011

Presiding Officer

Labour Court

Bhubaneswar

S.A.K.Z. AHAMED

26-11-2011

Presiding Officer

Labour Court

Bhubaneswar

By order of the Governor

M. R. CHOUDHURY

Under-Secretary to Government